

ORIGINAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DEF

C/m

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JOE HAND PROMOTIONS, INC.,

Plaintiff,

-against-

WILLIAM JONES, JR., et al.,

MEMORANDUM AND ORDER

No. 06-CV-2228 (FB) (CLP)

Defendants.
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Appearances:

For the Plaintiff:

JULIE COHEN LONSTEIN, ESQ.

1 Terrace Hill, Box 351

Ellenville, NY 12428

BLOCK, Senior District Judge:


On July 26, 2006, Magistrate Judge Cheryl L. Pollack issued a Report and Recommendation ("R & R") recommending that the Court grant plaintiff's motion to amend to add Steve Gibson as a named defendant. The R & R states that "[a]ny objections this Report and Recommendation must be filed with the Clerk of the Court . . . within ten (10) days of receipt of this Report," R & R at 4, and that "[f]ailure to file objections within the specified time waives the right to appeal the District Court's Order." *Id.* Plaintiff received a copy of the R & R on July 26, 2006, *see* Docket Entry #5 (Receipt), making objections due by August 14, 2006. *See* Fed. R. Civ. P. 6(a), 6(e). To date, no objections have been filed.

Where, as here, clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R & R without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758,

766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, see *Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

As no error appears on the face of the Magistrate Pollack's R & R, the Court adopts it without *de novo* review. The Clerk is directed to enter the amended complaint as filed to the extent permitted by the R & R.

SO ORDERED.



/signed/
FRÉDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
October 3, 2006